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Vol. II

TRANSCRIPT OF RECORD

(Pages 1 to 761)

Supreme Court of the United States

OCTOBER TERM, 1950

No. 201

HARRY SACHER, RICHARD GLADSTEIN, GEORGE W. CROCKETT, JR., ET AL., PETITIONERS,

vs.

THE UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED JULY 14, 1950.

CERTIORARI GRANTED OCTOBER 22, 1951.

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United States District Court

SOUTHERN DISTRICT OF NEW YORK

C. 128-87 *et al.*

UNITED STATES OF AMERICA

—vs.—

WILLIAM Z. FOSTER, EUGENE DENNIS, also known as Francis X. Waldron, Jr., JOHN B. WILLIAMSON, JACOB STACHEL, ROBERT G. THOMPSON, BENJAMIN J. DAVIS, JR., HENRY WINSTON, JOHN GATES, also known as Israel Regenstreif, IRVING POTASH, GILBERT GREEN, CARL WINTER, and GUS HALL, also known as Arno Gust Halberg.

CHALLENGE TRANSCRIPT

Before:

HON. SYLVESTER J. RYAN,

District Judge.

New York, January 3, 1949.

* * * * *

—Ch. Tr. 690—

* * * * *

The Court: An application to examine a defendant?

Mr. Sacher: But, your Honor, you see you come to the conclusion it is a routine motion on the basis of an unfamiliarity with the case, which you say you have. If it is routine it will entail no great burden on Judge Medina. The point we want to make here is this: We want to be in a position where we at all times are given the fullest constitu-

tional opportunity to defend the rights and interests of our clients.

The Court: You don't have to be put in that position. You are in that position.

Mr. Sacher: We are not. We are not to get the opportunity—

The Court: I don't want any more statements from you. I think your statement is contemptuous. The minute you enter this door you are given full

—Ch. Tr. 691—

opportunity to defend anybody you are here to defend.

Mr. Sacher: Yet when the District Attorney says what he said—

The Court: I don't want any more statements like that made in my presence.

* * * * *

—Ch. Tr. 706—

* * * * * *

Mr. Isserman: I have been in many cases in which the Court has been more than willing—

The Court: The remarks I made before concerning what I regarded to be a contemptuous statement I hope will not compel me to admonish you. Sit down. The motion is granted to the extent indicated and you may submit an order. If you can agree on the form of the order I will be glad to have you do so. If you cannot—

Mr. Isserman: May I—

The Court: Will you sit down, counsel.

Mr. Isserman: I will do it, but I object to your Honor—

The Court: Will you sit down and keep quiet while I am talking.

* * * * *

Colloquy

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

C. 128-87 etc.

UNITED STATES OF AMERICA

—vs.—

WILLIAM Z. FOSTER, EUGENE DENNIS, also known as Francis X. Waldron, Jr., JOHN B. WILLIAMSON, JACOB STACHEL, ROBERT G. THOMPSON, BENJAMIN J. DAVIS, JR., HENRY WINSTON, JOHN GATES, also known as Israel Regenstreif, IRVING POTASH, GILBERT GREEN, CARL WINTER, and GUS HALL, also known as Arno Gust Halberg.

Before:

HON. HAROLD R. MEDINA, *D. J.*,

(and a jury).

New York, January 17, 1949

10:30 a. m.

. . . . .

—Ch. Tr. 847—

. . . . . .

The Court:

I may say now—and this will go for the entire trial—that where one counsel objects and an unfavorable ruling is made, an exception may be

deemed to be noted not only in favor of and for the benefit of the client of the man objecting, but for each and every one of the other defendants, except in such case as someone representing one or more of the others may state in the record that

—Ch. Tr. 848—

he does not desire to join in the objection. I think we may have that stipulated for the entire trial, and it will save quite a little trouble, and certainly make sure that no one will be prejudiced by not having the benefit of an exception to an adverse ruling.

* * * * *

New York, January 20, 1949

* * * * *

—Ch. Tr. 1289—

* * * * *

Mr. McGohey: If your Honor please, in view of the suggestion which has been made in argument that your Honor as well as other judges of the court might be called as witnesses here, it seems to me, while I don't want to commit myself now as to what the law is on that question of calling the judge who is presiding at the hearing, it may be that the law is that the judge presiding if called as a witness

—Ch. Tr. 1290—

would thereafter be disqualified at least in that proceeding, which would mean that if that be the law and your Honor were called here, that then your Honor would be disqualified from continuing this inquiry into the constitution of the jury.

Colloquy

In order that time be not wasted I suggest that we ought to be informed now as to whether or not your Honor is going to be called. And if that be so I think we ought to as speedily as possible determine whether or not that would disqualify you from continuing with it so that then your Honor might stop at this point. Otherwise, what may happen is that if your Honor continues in the proceeding up to the point where you would be called maybe as the last witness and would thereafter be disqualified, it would mean that a new judge would have to come in and we would have to go over the whole proceeding all over again.

The Court: Well, it would be an extraordinary thing if a maneuver of that kind would automatically procure a delay and disqualify the judge. I can't persuade myself that that is going to be the law. At the moment I can't conceive of anything in reference to this matter concerning which I could give competent and relevant testimony, and I am inclined to think you will find the cases hold that where such is the case, and it is for the judge to

—Ch. Tr. 1291—

say that, not for counsel, that despite the desire to call the judge and have him testify, it will not be done. But I would rather refresh my recollection as to what the authorities hold, and I shall try to do that promptly and take appropriate action. If it should be the law, as I don't think it is, counsel who have repeatedly desired delay for various stated reasons, could procure that delay by merely asking the judge to be sworn. But we will see about that,

and I will bear in mind what you have said and attempt to give that prompt consideration.

Now I think it is appropriate for the defense counsel to indicate what it is that they consider I can competently testify to in this matter.

Mr. Isserman: May I be heard for a moment or two, your Honor, on that point?

The Court: Yes, you may.

Mr. McCabe: Before conferring I would like—

The Court: Whichever one of you desires to address me first may do so.

Mr. McCabe: I should like to go on record, your Honor, as taking exception to your Honor's implied reference to the consideration of calling your Honor as a witness as a maneuver used in connection with the delay.

The Court: I say it could be. I did not say

—Ch. Tr. 1292—

that it was being used here for that purpose. One of the things that seems so difficult for counsel to understand is that whenever you are discussing a proposition of law it is immediately inferred that you are charging somebody in the particular case. I say, if that were the law; as I indicated, I didn't think it was the law and one of the reasons I didn't think it was the law was that it would be a very readily available maneuver to automatically procure delay any time anybody wanted delay. Now, if you think that I have been referring to you or your colleagues, I say I am not. But I do also say that it seems a curious thing to me that such could be the law. But I do not pretend to know all the law. I like to look things up before I rule and find

out what the law is, which I think it is my duty to do, and that is precisely what I am going to do, and you may recall it is what I indicated earlier this morning that I wanted to do—by asking counsel to submit memoranda of law to me.

Now what is it that you propose to prove by me?

Mr. McCabe: I think that is a matter which is inappropriate to discuss at this time, your Honor.

The Court: You would all rather tell me later?

Mr. Gladstein: On the witness stand, your Honor.

Mr. Crockett: Your Honor will recall that in my statement I suggested that it might be necessary

—Ch. Tr. 1293—

before I establish the question of racial discrimination to call your Honor as a witness. I am not prepared at this time to state first whether or not it will be necessary to call your Honor, or secondly, for what purpose I will be calling your Honor; that is, what particular bit of evidence I shall endeavor to get from your Honor in the event it is necessary to call you.

Now I think under those circumstances my clients certainly cannot be compelled to commit themselves on the record at this time that they will call your Honor.

The Court: I now address myself to Mr. McCabe. What is it that you desire to establish through my testimony?

Mr. McCabe: That is a matter which I must respectfully decline to answer at this time, your Honor. I haven't even decided—

The Court: That is right.

Colloquy

Mr. McCabe: I haven't even decided that I should attempt to establish anything. I rose to make certain that no one would gather from your Honor's remarks that our declared intention of considering calling your Honor was at all in the nature of a maneuver or for any other purpose than to add light to the situation as we felt. I didn't like it, the remark, in conjunction with the word "delay."

I want to say that we have never sought delay in this case as delay. We sought a postponement

—Ch. Tr. 1294—

of the case for considerations which seem very persuasive and legitimate to us. And that is a very different thing in my mind from seeking to delay a case.

The Court: Mr. Sacher, what is it that you will desire to establish by my testimony?

Mr. Sacher: I too, your Honor, must respectfully decline to have your Honor ask that question, any more than any other witness might appropriately ask what I am going to ask him and whether I will call him. I might, though, point out that the dilemma in which the Court and the prosecution now finds itself might completely have been avoided had the motions which we made for the invitation of another judge from outside to come in been granted.

The Court: Mr. Gladstein, what is it that you desire to establish by my testimony?

Mr. Gladstein: Your Honor, I think I have made it clear what my position is on that question. I adopt the same answer that has been given, and I remind your Honor in connection with your statement about the maneuver, which you have now ex-

plained did not intend to apply to us, that it was asserted at the outset in connection with our motion here for an outside judge to hear this matter of the challenge, it was asserted by us that it was inappropriate, improper for anybody who sits as a judge in this court to pass on this challenge.

—Ch. Tr. 1295—

The Court: Mr. Isserman, what is it that you desire to establish by my testimony?

Mr. Isserman: Well, if the Court please, the Court is going on an assumption which is not borne out by the present state of the record. I have not said that I desire to call your Honor as a witness. However, in all frankness, I should say that in my consideration of the evidence which must be adduced on this issue that the possibility of calling your Honor has come up. Whether that possibility will ripen into actuality will depend upon the proof and the admissions and the evidence which we will get from other witnesses including officials connected with this court.

And at this point it is not possible for me to state (a) that I will call your Honor, and (b) on what specific issue will your Honor's testimony be necessary in connection with the development of a positive point or the refutation of the statement of some official.

The Court: Are there any other counsel representing the defendants other than the five lawyers that I have just addressed myself to?

Mr. Gladstein: The five represent among them all of the eleven defendants.

Colloquy

The Court: I intend to make my inquiry comprehensive so that if there be other counsel here rep-

—Ch. Tr. 1296—

resenting any of the defendants, I address myself to them and ask them to arise and indicate to me the subject on which they would seek to interrogate me, if there be any such subjects.

(No response.)

The Court: And I gather by not hearing any response to that, that there are no other lawyers here who can shed any light on the subject.

Now we will go ahead from there.

* * * * *

New York, January 21, 1949

—Ch. Tr. 1354—

* * * * *

The Court: It is sufficiently plain to me that I may not testify as a witness in a case over which I preside as judge, and I shall not do that.

Now, the question is whether or not the defendants intend to attempt to call me as a witness. On that subject I interrogated each counsel yesterday and received answers that I consider quite unsatisfactory. My disposition is to rule now that I know nothing about the matter, had no contact with the selection of juries or the jury system in any manner, shape or form, and that I simply will not testify. But I shall listen to anything the defense has to suggest on that subject.

Colloquy

Mr. Sacher: Speaking for my clients, your Honor, I should like to make this observation, that pursuant to your Honor's request all counsel, of course, gave the matter grave and serious consideration. I think it is fair to say that the feeling is that it would be a matter of—it would be with great reluctance that we would contemplate the calling of your Honor to the stand. We are, however, confronted with unknowables at the present time—

The Court: Well, you would have to make up your mind now whether you want to take the position that you desire to call me or whether you do not,

—Ch. Tr. 1355—

because I will entertain no such application after the first witness is sworn.

Mr. Sacher: Well, your Honor, speaking for myself I can only say that inasmuch as such a choice as your Honor requires me to make is one that I can only make knowingly, and since I do not at the present time have within my command the facts on which such a choice would have to be made, I must respectfully decline to make that choice now; and that is said not with any view to maneuvering here. We are saying it because we genuinely, at least speaking for myself, do not know at this time what the record may reveal.

I think it is important to bear this in mind, that the theory on which the petition was filed with the Supreme Court seeking to invoke its supervisory power was predicated on the thesis that all the judges of the Southern District had in some manner or other participated in the administration of the method of selection of juries.

The Court: Now, you see that that is not the case. I have not participated.

Mr. Sacher: Well, may I say this, your Honor, that the question of what will constitute participation is something that we are not informed of right now. In other words, the point is that participation

—Ch. Tr. 1356—

may consist of a variety of facts and circumstances, and while it may be that your Honor played no part in the origination of the methods used in the past decade in the—

The Court: And I have had nothing to do with it since.

Mr. Sacher: You see, your Honor, I am not facetious about this, but even a so-called lack of participation might legally, despite its paradoxical aspect, be regarded as participation, you see.

The Court: Well, you have it on the record now that I have had nothing to do with it, have not participated in it at all.

What more do you want?

Mr. Sacher: Well, your Honor, as I say, fundamentally the question is one of what constitutes participation—

The Court: Well, let us not argue about it any more. Let me hear from each of the other defendants so that we will have the position of each made plain. I understand your position now.

Mr. Sacher: I would just like to add this, that our notion is not—I should like to make this clear—speaking, again, for myself; my colleagues will, of course, speak for themselves—I would not regard

Colloquy

—Ch. Tr. 1357—

your Honor's participation as a witness in this proceeding, qua witness, as a disqualifying factor.

The Court: I would.

Mr. Sacher: What is that, your Honor?

The Court: I would. I think if I am sworn as a witness I think I am automatically disqualified, and I have no intention of being sworn as a witness in a case about which I know nothing.

Mr. Sacher: All I want to make clear to your Honor is that so far as I am concerned, I am quite willing that swearing you in and having your testimony as a witness will not be regarded by me as a disqualifying factor except to the extent that the testimony might disclose—and when I say "testimony" I mean not only your Honor's testimony but the testimony and evidence produced in the proceeding—

The Court: I do not think that is a question in which any waiver by counsel is contained. If I take the witness stand, in my own view of the law, I become automatically disqualified. You might, and your colleagues might, for one reason or another, say that you are very glad to have me do it, but the effect will be the same, and I do not intend to do it.

—Ch. Tr. 1358—

Mr. Sacher: All I can say to your Honor is that to the extent of the power that the defendants and I as their counsel have to waive the disqualification of your Honor solely on the basis of testifying we are willing to do so, and if your Honor says it can't

be done then I most regretfully say that that is the extent to which I can go along.

The Court: Now let me hear from each of the others seriatim et singularum.

Mr. McCabe: On behalf of the defendants Dennis and Winston, your Honor, I say to your Honor that I simply cannot conscientiously foreclose myself by any action of mine from exercising what I might consider the duty and the right to call your Honor as a witness if facts are developed through previous inquiry or through the preliminary inquiry which would lead me to feel that your Honor should, despite your Honor's statement, which of course I accept as the fact, that your Honor never actively participated in the conduct of the selection of the panel which we are attacking. I say that very often acquiescence may be the most direct and most forceful sort of action. So for that reason I am not prepared now to say that I shall not call your Honor, I am not prepared to say that I shall find it necessary. I simply say that so far as is in my

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power, your Honor has indicated that your Honor will exercise your own judgment and power to foreclose me if I didn't state now that—

The Court: I say now I will not be a witness.

Mr. McCabe: Then I have said all I can say, your Honor, and any action I may take in the future will have to be a matter of record to be passed on.

Mr. Crockett: If the Court please, I am unable to state at this time whether or not I shall have occasion to call your Honor as a witness. I am per-

suaded however that the mere fact that your Honor states that he will not be a witness, under my view of the law is not conclusive. I think the question will properly be presented to your Honor when and in the event I decide to call your Honor as a witness on behalf of my defendants.

Mr. Gladstein: Your Honor, I must say that inherent in the very nature of the moving papers that we filed is the distinct possibility that your Honor should be a witness in this case.

The Court: With respect to what?

Mr. Gladstein: With respect to the jury system or the administration of the system of justice in this court from the time it was developed by Judge Knox about ten years ago until the present date. And may I explain that, Judge?

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The Court: Well, if you claim that there is some law that makes it essential that a judge immediately upon being sworn in must busy himself about this subject, then you have the fact to be that I did not busy myself about it. I had plenty else to do. Nobody suggested that I inquire into it, it never occurred to me to inquire into it; I had no reason to suppose there was anything the matter with the administration of the jury system, and I have had nothing to do with it.

Mr. Gladstein: Well now, your Honor will certainly recognize that we do have a right to establish by proof, by evidence, the assertions that are contained in our challenge. Those assertions embrace a period of approximately ten years, roughly 1938 or 1939 to the present date.

Colloquy

Now your Honor has been sitting on the bench here for a period of about a year and a half during the course of which, of necessity, your Honor has been an integral part of the functioning of the entire system including that which involves the selection of jurors. Your Honor of necessity in carrying out his official duties and functions has participated in conferences with other judges and has had some connections or relations with the operation of the jury system.

The Court: That I say has not happened. I have

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had no conferences with any of the other judges or with any of the clerks or with anyone else on the subject. I have had absolutely nothing to do with it.

Mr. Gladstein: But your Honor raised this question, you asked whether it was the viewpoint of anyone that upon being sworn into office it becam your obligation to interest yourself in the manner in which the jury system—

The Court: That you don't need any testimony about. If that is so, it is so.

Mr. Gladstein: Well, on that my answer is distinctly yes, that I think it is the obligation not only of the judges of the United States courts to refrain from initiating procedures in connection with a jury system that are illegal, but likewise that it is an obligation upon the judges affirmatively to interest themselves in correcting any possible evidence or existence of impropriety, illegality or corruption in the administration of the jury system.

And your Honor himself raised the question a day or two ago—you remember this, Judge—as to

whether I felt that there was some obligation upon the judges, and I mentioned at that time that it seemed to me that, regardless of the state of the law, whether there was an obligation upon the

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judge to involve himself in a supervision of the jury system or whether the obligation was to the contrary—that is to say, that he was to refrain from interfering in any manner whatever with the performance of the duties of the clerk or jury commissioner: in either event what has happened in this district is wrong and that the system in effect is impaled on the horns of a dilemma.

But my own view of it is that it is really the duty of a judge to inquire, to interest himself in the system of justice over which he presides or of which he is a part, and that the discharge of that duty requires him to take affirmative steps to correct what he finds to be wrong. And I say that while personally I would prefer—I would prefer—not to embarrass the judge who presides over a trial by calling him as a witness—

The Court: Well, it isn't easy to embarrass me. As I said a little while ago, I am not over-sensitive. It isn't a question of embarrassment. But get ahead now and tell me what your position is without too much circumlocution, and then we will hear from Mr. Isserman.

Mr. Gladstein: I desire the record to show that by reason of the inherent character of the challenge

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filed here and by reason of the impossibility of knowing in advance—and your Honor must know

this as a practicing attorney of many years—of knowing in advance just what witnesses, potential witnesses on the fringes of his case may or may not have to be called, I wish the record to show that I reserve my right to ask your Honor to take the stand as a witness, and to advise your Honor that there is a possibility that I may wish your Honor to sit as a witness in this proceeding on this challenge. And therefore suggest to your Honor that in view of that distinct possibility, in view of the fact that your Honor has expressed himself very decisively against taking the witness stand in any proceeding in which your Honor presides over, I would suggest that—

The Court: You can double that.

Mr. Gladstein: I suggest that your Honor ask some other judge outside this district to preside over this portion, that is, this challenge.

The Court: Well you know, Mr. Gladstein, you have been trying, and your colleagues, to get me out of this case for a long time on various grounds. Now I have seen no merit in those grounds and I see no merit in this one. Now it may be that repeating it a little bit will serve to make the record clear, and I don't mind your doing it, but I do think

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it is fairly clear that you would rather have me out of the case.

Mr. Gladstein: Well, your Honor, that is not the question we are discussing.

The Court: Well, all right.

Mr. Gladstein: We are discussing the propriety of your Honor's sitting—presiding over a matter in which counsel advise you that it is possible that they may desire to have your testimony, and that

that statement of counsel on its face is valid, sincere and has merit by reason of the fact that the moving papers which challenge the entire system of the administration of justice in this court distinctly raised the possibility of the necessity of calling all of the judges, including your Honor, who preside, who function in this court. And it is not a question of trying to get you out of the case. It is a question of whether it is appropriate for a judge to preside over a case in which he is advised that he may be called as a witness on a matter of such importance. This is not a question of whether you witnessed an accident on a street corner. This is a question that goes to the very heart of the whole system of justice in this court.

The Court: Now why don't you give Mr. Isserman a chance?

Mr. Isserman: If the Court please, I certainly

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have no control over your Honor's statement of position which your Honor has elevated I believe to the strength and dignity of a ruling, but I do have a right to object to that ruling. And I object to that ruling because it is prematurely made and because it is clearly within the ambit of the issues before your Honor on this challenge, as indicated by the papers now before you, that the possibility at least, and I certainly would say it is clear indeed to me, that the possibility at least of your being a witness in this case is there.

The Court: That possibility is gone.

Mr. Isserman: Now your Honor's ruling apparently is the reason why your Honor states that pos-

sibility is gone. But the possibility is not gone, your Honor, that my client may require you as a witness. I desire the record to note that. And because I am obliged to represent my client I cannot now waive any right which he may have or any witness that he may need.

And therefore in objecting I wish to note the possibility of calling you as a witness and at the same time stating that if we arrive at that stage or that I do, it will only be after a very careful consideration of the evidence up to that point.

. . . . . .

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By Mr. Gladstein:

Q. Mr. Allen, what is in round figures the assessed valuation of the home in which you live? A. Do I have to answer that, your Honor?

The Court: Will you read that, Mr. Reporter?

(Question read.)

The Court: I will sustain the objection.

Mr. Gladstein: May I be heard before your Honor sustains the objection?

The Court: Certainly you may be heard. I think it is entirely proper to ask him whether he owned property considerably in excess of the required amount. I would not permit inquiry of a person summoned as a juror or questioned to see whether he was qualified, as to what his property is; and

you start with his house, and then you would get into his safe deposit box and how much money he has got in his pocket, and so on and so forth, and I just won't permit that.

Mr. Gladstein: I think your Honor has perhaps forgotten—perhaps not—the charge contained and the allegations contained in our moving papers, and the assertions we make as to the nature of the

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composition of juries obtained through the system of selection administered in this court; and one method of proof and a method of primary proof, the best possible evidence, is to obtain from the potential juror himself, the person on the list, that evidence to which Mr. Justice Jackson addressed himself when he was discussing the failures or the loopholes or omissions of proof in the Fay case, with which your Honor is familiar. I now submit, Judge—

The Court: Let me see the part of Mr. Justice Jackson's opinion that you are referring to. Have you got the volume here?

Mr. Gladstein: I have only the advance opinions.

Mr. McGohey: We have the volume.

The Court: The advance opinions have the same page numbers as the bound volumes. What page are you reading from?

Mr. Gladstein: I had not been, but I will read from page 1524.

The Court: I guess that is it. I guess that must be the Lawyers Edition, and I have the Official Edition here. You read and I will follow without tak-

ing the trouble to get the Lawyers Edition down. Read me the part.

Mr. Gladstein: Now, in that portion of the opinion Mr. Justice Jackson says this. He says:

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"The proof that laborers and such were excluded consists of a tabulation of occupations as listed in the questionnaires filed with the clerk. The table received in evidence is set out in the margin. It is said in criticism of this list that it shows the industry in which these persons work rather than whether they are laborers or craftsmen. That is, mechanics may be and probably are also laborers. Bankers may be clerks. Certainly the tabulation does not show the relation of these jurors to the industry in which they were classified, as, for example, whether they were owners or financially interested or merely employees."

Now, what Mr. Justice Jackson is saying there is this—

The Court: Well, I think I have followed it sufficiently to adhere to my ruling, and the objection is sustained.

Would you like to argue a little more?

Mr. Gladstein: I think so, and I think other counsel have a real interest in presenting argument to your Honor on this matter.

The Court: I will listen to them.

Mr. Sacher: If the Court please, I think one thing solely has to be borne in mind, and that is this,

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that in all of our questioning we are going to address ourselves to proving the inclusions and exclusions enumerated in our papers. One of the basic charges made in our challenge is that systematically there have been chosen the rich, the propertied and the well to do, and that both the grand jury and the petit jurors have been made the organs of a specific class, namely, the rich, the propertied and the well to do; and the question that Mr. Gladstein has put is directed to the establishment of that proposition in regard to this gentleman on the stand. In other words, the purpose is to establish that he is among the rich, the propertied and the well to do.

The Court: Would your colleagues like to address me on the subject?

Mr. McCabe: I would like to call attention to one fact, your Honor: Your Honor seemed to fear that we were going into minute detail of the amount—

The Court: No. I say it is not relevant or competent to show exactly how much money the man has, what property he has. I think it is sufficiently disclosed for your purposes in the testimony already given.

Now, I am not going to keep explaining my rulings, and I am only listening to the argument that is made here in this preliminary stage, but as this question may be presented again and again, I hope

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counsel will not assume that I am going to listen